



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Draft

Date Amended:	05/08/07	Bill No:	<a href="#">AB 1050</a>
Tax:	Sales and Use	Author:	La Malfa, et al.
Related Bills:			

## BILL SUMMARY

This bill would provide a sales and use tax exemption for the sale and purchase of any form of animal life, except as specified, the products of which ordinarily constitute fiber, as defined.

### SUMMARY OF AMENDMENTS

The amendments to this bill since the previous analysis add a coauthor and delete the provision that would have exempted sales of feed to any form of animal life the products of which ordinarily constitute fiber.

## ANALYSIS

### CURRENT LAW

Under the existing Sales and Use Tax Law, the sales or use tax applies to the sale or use of tangible personal property in this state, unless specifically exempted. Under existing law, animals are regarded as tangible personal property, and sales of animals are generally subject to tax. However, Section 6358 of the Sales and Use Tax Law provides a sales and use tax exemption on charges for what are generally referred to as “food animals.” In particular, the sale or use of any form of animal life the kind of which ordinarily constitutes food for human consumption is exempt from tax. A cow, for example, is regarded as a food animal and the sale of a cow is exempt from tax since the products from cows ordinarily constitute food for human consumption. Other animals regarded as “food animals” include sheep, rabbits, swine, chicks, fish, and bees.

In addition, the sale or use of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption is also exempt from tax (such as alfalfa for cows), as well as feed for any form of animal life of a kind the products of which are to be sold in the regular course of business (such as feed sold to a person in the business of raising and selling rodents, or feed purchased by a chinchilla farmer where the chinchillas are bred for their pelt).

### PROPOSED LAW

This bill would add Section 6358.3 to the Sales and Use Tax Law to provide a sales and use tax exemption for the sale and purchase of any form of animal life the products of which ordinarily constitute fiber.

The bill would define “fiber” to mean a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products.

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*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.*

The bill would exclude from the term “any form of animal life,” horses, dogs, cats, monkeys, chinchillas, mink and rodents.

As a tax levy, the bill would become operative on the first day of the calendar quarter commencing more than 90 days after the bill is enacted.

## COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author. It is intended to provide sales of “fiber animals” the same tax benefits as sales of “food animals.” The author’s office notes the inconsistency in the law with respect to the application of tax to some animals raised for their fibers. As an example, California farmers often raise both angora rabbits and alpacas for fiber production. The sale of an angora rabbit is currently exempt from tax, as rabbits are animals of a kind the products of which ordinarily constitute food for human consumption. Yet, angora rabbits are generally bred for their wool. On the other hand, the sale of alpacas that are generally bred for their wool is subject to tax, since alpacas are not animals regarded as “food animals.” The author’s office sees this as an illogical distinction, and is attempting to put “fiber animals” on equal footing with “food animals” relative to the Sales and Use Tax Law.

2. **The May 8, 2007 amendments** add an additional coauthor and delete the provisions that would have included sales and purchases of feed for the animals proposed to be exempted by this measure.

**The May 2, 2007 amendments** added additional coauthors and addressed various issues pointed out in the Board’s previous analysis regarding the ambiguities and administrative complexities associated with the earlier language. With these amendments, the language of the proposed statute for sales of fiber animals and their feed paralleled the language in Section 6358 for the exemption for sales of food animals and their feed. Accordingly, the sale of any animal (except those specifically excluded) that is of a kind that ordinarily produces fiber would be exempt from tax, whether or not the animal is ultimately used to produce fiber. The amendments also incorporated a definition for “fiber,” and deleted the provisions that would have additionally included an exemption for the sale and purchase of drugs or medicines for fiber-producing animals.

3. **Should the application of tax for “fiber animals” parallel the tax application to “food animals?”** While the inconsistency in the law is recognized, the underlying rationale for the existing exemption for sales of food animals is that food is a basic necessity of life, and its price should not be increased by taxation. Extending this type of exemption to sales of “fiber animals” could be viewed as a far-reaching deviation from this rationale.

## COST ESTIMATE

Some administrative costs would be incurred in notifying affected retailers, amending the Board’s Regulation 1587, and answering inquiries. These costs are expected to be absorbable.

**REVENUE ESTIMATE****BACKGROUND, METHODOLOGY, AND ASSUMPTIONS****Alpacas**

In a research article titled, "Alpaca Market in California," the California Research Bureau indicated that about 99% of all alpacas in the U.S are registered, and those in the U.S. without this distinction have minimal value as breeding stock, or when auctioned, and are extremely difficult to sell through private transactions. Further, U.S. registrations exceed 98,800. Ohio, with 12,725 registered animals, is the leading state in the U.S. in alpaca population, followed by Washington, Oregon and California, with 6,530.

According to the Alpaca Owners and Breeders Association, alpaca sales data is not available. The authors of the UC Davis report indicated that there was no systematic reporting of alpaca sales. According to the California Alpaca Breeders Association (Calpaca), non-breeding males generally sell for \$500 to \$1,000. In a survey conducted by Calpaca in April 2007, respondents indicated that they paid \$34,000 in sales and use tax for their purchases of alpacas. Estimated annual sales for alpacas would therefore be \$428,212 (\$34,000 sales & use tax / 7.94% average tax rate = \$428,212 in taxable sales).

**Llamas**

According to the International Llama Registry, a not-for-profit corporation that maintains llama genealogical information, as of April 2007, there were 158,663 llamas registered in the U.S. and 12,384 llamas registered in California. However, there is no data on the number of llamas actually sold each year.

Llamas sell from \$500 to \$5,000, depending on the animal. The average estimated price is \$1,500 for females and \$800 for males. Using an average price of \$1,150 per llama, and assuming 10% of all registered llamas are sold annually, total annual sales of llamas amount to \$1,424,160 (12,384 x 10% x 1,150).

**Total Alpaca & Llama Sales**

Total annual sales or purchases are estimated to be \$1.86 million (\$428,212 for alpacas + \$1,424,160 for llamas).

**REVENUE SUMMARY**

The annual revenue loss from exempting \$1.86 million in sales of alpacas and llamas from the sales and use tax would be as follows:

State loss (5%)	\$ 93,000
Fiscal Recovery Fund loss (0.25%)	4,650
Local loss (2.00%)	37,200
Special District loss (0.69%)	<u>12,834</u>
Total	<u>\$147,684</u>

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